

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2003-945

January 30, 2004

BANGOR HYDRO-ELECTRIC COMPANY  
Request for Approval of Special Rate  
Contract with Fort James and Request  
For Accounting Order

ORDER DENYING  
REQUEST FOR  
ACCOUNTING ORDER

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WELCH, Chairman; DIAMOND and REISHUS, Commissioners

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**I. SUMMARY**

We deny Bangor Hydro-Electric Company's (BHE) request for an accounting order that would authorize BHE to defer the lost revenue resulting from a special rate contract with Fort James Operating Company (Fort James).

**II. BACKGROUND**

On December 29, 2003, Bangor Hydro-Electric Company (BHE or Company) filed a petition with the Commission requesting approval of a special rate contract entered on December 19, 2003 between BHE and Fort James Operating Company (Fort James) and proposed to take effect on January 1, 2004. By separate order on this same day, we approve the special rate contract between Fort James and BHE. As part of its petition, BHE requested that the Commission issue an accounting order authorizing BHE to defer until its next stranded cost case any lost revenue resulting from the proposed contract (the "Fort James 2004 Agreement").

The Commission Staff conducted a case conference and informal discovery, seeking information from BHE about the justification for the special rate contract and financial information relevant to stranded costs rates and revenue requirement. On January 16, 2004, BHE filed a letter with the Commission providing additional reasons why the requested accounting order is proper in its view.

**III. DISCUSSION**

An accounting order allowing a utility to defer certain costs should be seen as an exception to the rule that ratemaking is usually done on a prospective cost basis. *Public Utilities Commission, Investigation of Stranded Cost Recovery, Transmission and Distribution Utility Revenue Requirements, and Rate Design of Bangor Hydro-Electric Company*, Docket No. 1997-596, Accounting Order (Sept. 8, 1999). Accounting orders providing for deferral mechanisms, should be used only in truly extraordinary cases or in specific instances where the amount of spending cannot be reasonably estimated with any certainty or where the existence of incentives or disincentives supports deferral. We have generally viewed an operating expense to be extraordinary when it exceeded 2.5% to 3.0% of total operating expenses. *Northern Utilities, Inc. Proposed*

*Environmental Response Cost Recovery*, Docket No. 1996-678, Order Approving Stipulation at pg. 9 (April 28, 1999).

According to BHE, the Company anticipates that the Fort James Agreement will result in lost revenues to BHE from Fort James during the 14-month period from January 1, 2004 through February 28, 2005 of approximately \$1.0 million in comparison to the revenues estimated to be received from Fort James for the same period in BHE's most recent stranded cost case. *Public Utilities Commission, Investigation of Bangor-Hydro Electric Company's Stranded Cost Revenue Requirement*, Docket No. 2001-239, Order Approving Stipulation (Feb. 28, 2002). In that case, we established stranded cost rates and revenue requirements for BHE for a three-year period beginning March 1, 2002 and ending February 28, 2005. The annual level stranded cost revenue requirement approved in that case was \$45,144,768. On an annual basis, then, the lost revenue from the Fort James 2004 Agreement represents approximately 1.9% of annual revenue stranded cost revenue requirements.

During the first seven quarters of the stranded cost period, revenues were almost exactly as forecasted<sup>1</sup> and expenses were \$2.7 million dollars less than projected. Looking at the next five quarters, the Company expects expenses to be under forecasted levels by approximately \$1 million. Other than the lost Fort James revenue, the Company now forecasts revenue from other customers to be approximately \$3.7 million less than forecasted.

If the lost revenue realized from the Fort James contract was the only lost revenue erosion to be realized by the Company over the remaining 14 months of the current stranded cost period, the loss would be almost exactly offset by the projected decrease in stranded cost expenses. In looking at the information provided by BHE, it appears that the real potential source of BHE's problem is BHE's projection at this time that revenue from other customers will be significantly below forecasted levels, although this has not been the case to date. We conclude that the appropriate place to address such concern is through a revenue requirement investigation. We do not believe that an accounting order request, such as the one before us, is the appropriate vehicle to address an updated or modified sales forecast which the utility believes will put the Company in an under earnings position.<sup>2</sup>

Based upon the financial information presented by BHE, we conclude that the Company's request for an accounting order is not justified. Therefore, we deny BHE's

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<sup>1</sup> BHE asserts that, while actual revenues were about as forecasted, on a weather normalized basis revenues were about \$400,000 less than forecasted.

<sup>2</sup> In its January 16, letter, BHE states that it will forego seeking a rate change for the additional \$3.7 million revenue shortfall if the Commission grants BHE the requested accounting order. For the Commission to decide that BHE's offer is reasonable, the Commission still would have to conduct a more thorough revenue requirement investigation than is conducted in an accounting order request.

request for one. In denying the request, we do not rule out the possibility that the Company's under-earnings position, if substantiated, might be addressed in some manner other than a full blown stranded cost investigation.

Dated at Augusta, Maine, this 30<sup>th</sup> day of January, 2004.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Diamond  
   Reishus

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.